

September 5, 2006

Mr. Grossi called the Workshop Meeting of the Union Township Planning Board/Board of Adjustment to order at 7:05 p.m. The Sunshine Statement was read.

Members Present: Mr. Rossi, Mr. Mulhall, Mr. Martin, Mr. Brandt, Mr. Lukasik
Mr. Bischoff, Mr. Rosol, Mr. Grossi, Mr. Scott

Members Absent: Mr. Roth

Others Present: Robert Bogart, Atty. Anthony Kearns, Jeanne Fleck, John Witte

Issue of Completeness: Fleck: Block 15, Lot 33, 471 County Road 579: Applicant is seeking to build a 412 square foot addition to the pre-existing dwelling. The lot does not abut a public road, therefore a variance is required. Applicant is seeking relief from submitting a Landscaping Plan, an Impact Statement, Listing of any Easements and a Letter of Interpretation. Mr. Bogart recommended that the Board deem the application complete, if members were inclined to grant the waivers. Mayor Rossi voiced a concern about the addition encroaching on wetlands. Mr. Bogart said that matter would be addressed at the Public Hearing. The waiver would be for completeness only. Atty. Anthony Kearns, representing applicant, said testimony would be provided at the Hearing. Mr. Bogart recommended that a new Survey be submitted showing a merger of two lots. Mr. Scott asked why a variance would be required since this is an existing lot. Mr. Bogart said the MLUL states that anything that requires a building permit triggers the variance. Atty. Kearns is of the opinion that applicant needs to come before the Board.

Mayor Rossi asked if the matter was a Board of Adjustment matter. Atty. Kearns believes the Board of the Adjustment is the proper Board. Mayor Rossi said he would recuse himself. Mr. Mulhall did the same. Mr. Brandt noted that information submitted by applicant alluded to use of the addition for crafts. He asked if the crafts would be sold. Mrs. Fleck said "no". Mr. Brandt asked Mr. Bogart for clarification as to why a waiver is sought for Easements. Mr. Bogart said there is a Checklist Item that had to be addressed. Testimony will be provided on the matter.

Mr. Scott made a motion to deem the application complete, with the requested waivers granted, excepting the L.O.I. which would be granted for completeness only. Mr. Rosol seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Rosol, Mr. Martin, Mr. Brandt, Mr. Lukasik, Mr. Bischoff
Mr. Grossi

Atty. Kearns was told the Hearing would be scheduled for the October 26, 2006 meeting. Messrs. Rossi and Mulhall resumed participation in the meeting after the above action.

Toll Bros/Lookout Pointe: Block 11, Lot 8, Rupell Road & Bank Street:

Memorialization of Resolution: Amendment to Resolution of Approval: A motion to memorialize the Resolution was made by Mr. Rosol and seconded by Mr. Scott.

Vote: Ayes: Mr. Rosol, Mr. Scott, Mr. Martin, Mr. Lukasik, Mr. Grossi

Witte: Block 29.03, Lot 10, 34 Wyckoff Drive: Reconfiguration of Net-Buildable Area: Mr. Witte is seeking approval to reconfigure his net buildable area to accommodate a pool. Mr. Bischoff asked Mr. Witte why, instead of reconfiguring the land, he didn't put the pool in back of the house. Mr. Witte said he was trying to preserve as much of the backyard as possible for the children to play. Mr. Scott asked about notice to adjacent property owners. Mr. Witte was advised to obtain a list of all property owners within two-hundred feet and that would include Applied Wastewater. Mr. Witte was told he could write a letter to the property owners stating his intentions and obtain signatures in person. However, he was advised to send a Certified Letter to Applied Wastewater. Mr. Scott asked how the Board would feel about granting approval, conditioned upon Mr. Witte providing the requested information. This would allow Mr. Witte to continue with the schedule he has with Carlton Pools. Mr. Grossi agreed with Mr. Scott, as long as what Mr. Witte prepares and submits to the Board is convincing that he has given due and proper notice of his intentions. Mr. Mulhall said an approval could be granted, conditioned upon Mr. Witte providing the Board with evidence that the neighbors have been notified and signed off acknowledging they are aware of the location of the swimming pool. Applied Wastewater must be notified by Certified Letter. This information must be provided to the Board by the September 28, 2006 meeting. Mayor Rossi asked about a shed on the property. Mr. Witte said the shed is less than 100 square feet. It is 15 to 17 feet from the property line. Mr. Mills said that size shed is required to be 12 feet from the property line.

Mr. Mulhall made a motion to grant the request with the above condition. Mr. Scott seconded the motion.

Vote: Ayes: Mr. Mulhall, Mr. Scott, Mr. Rossi, Mr. Martin, Mr. Brandt, Mr. Lukasik
Mr. Bischoff, Mr. Rosol, Mr. Grossi

Mayor Rossi emphasized to Mr. Witte that the letter sent to Applied Wastewater be submitted with the Certified Letter Green Receipt Card.

Mr. Witte was advised that the September 28, 2006 meeting will be held at the Union Township School, 165 Perryville Road, at 7:00 p.m.

Comments from the Public/Other Discussion: None

Correspondence: NJPO Fall Training Program: Dates and Times of the Programs were listed for Board members information. **Guidance for Development of Municipal Mitigation:** Mr. Grossi thought Dr. Souza should offer the Board advice. Mr. Scott agreed. It will be scheduled for the September 28, 2006 meeting. **Country Arch Care Center: Block 25, Lot 18.08, 114 Pittstown Road:** Mr. Grossi said the letter states that the septic system is failing and a new system will be constructed. An exemption has been granted from the Highlands Act. Mr. Scott said he understands the exemption is for the limited purpose of replacement of the system.

Mr. Mulhall said the exemption is granted because the septic system replacement is not considered new construction. **NJ Highlands Council Meetings:** Mr. Grossi said the notice gives the dates of the September work sessions. **Assemblywoman Karrow's letter Re: Highlands Act and Deed Restrictions:** The letter states that NJDEP is asking that deed restrictions be placed on properties deemed exempt from the Highlands Act before granting property owners building and/or other project permits. Ms. Karrow is sponsoring a Bill (A-3117) that would prohibit the NJDEP from imposing those conditions.

Apgar: Block 19, Lot 7, 33 Driftway: Zoning Official David Mills sent a letter to Mr. Apgar about a Barn that has been converted to a residence. A Building Permit and CO had been issued for the Barn. Mr. Mills issued a letter on August 10, 2006 directing Mr. Apgar to convert the dwelling back into the Barn in 30 days. Atty. Lloyd Tubman sent a letter, dated August 18, 2006, appealing Mr. Mills' decision. Mr. Scott understands the Board needs to hear the appeal. If the Board upholds Mr. Mills' decision, Mr. Apgar would need a variance. If the Board overrules the decision, Mr. Apgar would get other relief. Mr. Bogart agreed. Mayor Rossi understood that Atty. Tubman was appealing the 30 day requirement. Ms. Tubman's letter states that Mr. Apgar intends to pursue other alternatives and that could not be accomplished in 30 days. Mr. Scott said there is a procedure the Board must follow. Secretary was asked to tentatively schedule the matter on the September 28, 2006 agenda. Atty. Sutphen will be contacted to see if he would be available for the October 3, 2006 Workshop. Mr. Mulhall said Mr. Apgar and Atty. Tubman should be notified. Mayor Rossi thought information should be obtained from Atty. Sutphen prior to the next meeting. Mr. Grossi said Mr. Apgar and Ms. Tubman should have been at tonight's meeting to discuss the stay of Mr. Mills' Order. Mayor Rossi thought the Board should take action tonight. Mr. Bogart thought the matter should be discussed with Atty. Sutphen. Mr. Scott said action could be taken tonight that would stay the Order until September 29, 2006.

Mr. Scott made a motion to Stay Mr. Mills' Order until September 29, 2006. Mr. Rosol seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Rosol, Mr. Rossi, Mr. Mulhall, Mr. Martin, Mr. Brandt
Mr. Lukasik, Mr. Bischoff, Mr. Grossi

Mr. Brandt asked Mr. Mills if he thought the intent of the owner was to use the structure as a dwelling. Mr. Mills replied in the affirmative. Mr. Scott said if it is determined that there is no specific time frame, the matter could be scheduled for the October 26, 2006 regular meeting.

Toll Bros/Lookout Pointe: Block 11, Lot 8, Rupell Road & Bank Street: The August 9, 2006 letter from the NJDEP states that applicant's Distribution System Permit had been determined to be Administratively Complete. **HCPB Memo Re: Cross Acceptance Negotiations Schedule and Municipal Appointments:** For Board's information.

Approval of Minutes: A motion to approve the minutes of the July 11, 2006 Workshop meeting was made by Mr. Rossi and seconded by Mr. Bischoff.

Vote: Ayes: Mr. Rossi, Mr. Bischoff, Mr. Martin, Mr. Rosol, Mr. Grossi, Mr. Scott

Abstain: Mr. Mulhall, Mr. Brandt, Mr. Lukasik

A motion to approve the minutes of the July 27, 2006 meeting was made by Mr. Bischoff and seconded by Mr. Rosol.

Vote: Ayes: Mr. Bischoff, Mr. Rosol, Mr. Martin, Mr. Lukasik, Mr. Grossi, Mr. Scott

Abstain: Mr. Rossi, Mr. Mulhall, Mr. Brandt

Other Business: Mr. Bischoff had a concern about a dangerous precedent the Board may have set in the matter of **Peer, Seven Springs Farm**. Bonnie Bowers Peer had appeared at the July 11, 2006 Workshop with her proposal for a Land Labs Education Program at the Preserved Farm. Mr. Bischoff does not believe the proposal is a permitted use and therefore, a variance is required. David Mills said he had not issued a permit. Mr. Mills stated he believes agriculture has a responsibility to educate. Mayor Rossi told Mr. Mills that was his opinion. Mr. Bischoff said farming should be supported; he has a procedural concern. Mr. Rosol had a concern about the proposal being called a school. He said there would be different regulations if it was a school. Mr. Rosol does not believe Ms. Peer's proposal should be called a school. He said it is a workshop site. Mr. Bischoff said it is an educational laboratory. Mr. Scott had a concern about the Board setting a precedent by offering an advisory opinion. He said there was no application technically before the Board. Ms. Peer had not been denied by Mr. Mills and there was no request for a variance. Mr. Bischoff said the Board had already given an advisory opinion when Tom Ricker sought advice for a shooting range. Mr. Mulhall said it is the applicant's responsibility to show the Board that their proposal is a reasonable approach to land use that meets Union Township's Master Plan requirements. Mr. Mulhall agrees that no advisory opinions should be given.

Mr. Grossi had a question about whether Ms. Peer's proposal was permitted under the Legislation that created preserved farmland. Mr. Mulhall indicated the State Agricultural Development Board (SADB) makes those decisions. Applicant should come back to the Board with a decision from the SADB as to whether the proposal would be permitted. Mr. Mulhall said he does not feel it is appropriate for a local Planning Board to delegate its authority to the SADB or the County Agricultural Development Board (CADB). He believes that could happen if applicant goes to either of those Boards. Mr. Grossi asked if the State through its Legislation has preempted the area, why would the Board involve itself? Mr. Mulhall emphasized that the Board was evaluating the matter with respect to the Township Land Use Ordinance. Applicant could appeal to the SADB or the CADB to overrule the Planning Board. Mr. Grossi wanted to know what would have happened if the State had been asked and said "no". Mr. Scott said Ms. Peer had been to the CADB and they indicated it was not inconsistent with agriculture. Mr. Mills had attended the CADB meeting.

Mr. Bischoff said Ms. Peer told the Board there were some things incumbent upon the owners of the Farm Preserved Land as far as generating income. Mr. Mulhall mentioned that the Board has an outside agency review process and an approval by the local Board would have a condition that those agencies would have to approve the proposal. That might include the SADB and CADB. Mr. Scott emphasized there has been no formal application. Ms. Peer had been before the Board with an Informal Concept.

Mr. Grossi asked if Board members were aware of the traffic counts being taken. It is uncertain if the counts are being performed by Pilot's professionals.

A motion to adjourn was made by Mr. Mulhall and seconded by Mr. Rossi. (8:15 p.m.)
Vote: All Ayes

Grace A. Kocher, Secretary